



CITY OF HOUSTON

Planning and Development Department

Post Office Box 1562 Houston, Texas 77251 713/754-0001

Bob Lanier, Mayor

CITY COUNCIL MEMBERS: Helen Huey Michael J. Yarbrough Martha J. Wong Jew Don Boney Rob Todd Ray F. Driscoll John Kelley Felix Fraga
John Castillo Gracie Guzman Saenz Joe Roach Orlando Sanchez John W. Peavy, Jr. Judson W. Robinson III CITY CONTROLLER: Lloyd Kelley

MEMORANDUM

February 7, 1996

TO: Planning Commission Members

FROM: Robert M. Litke, Planning Director

SUBJECT: Chapter 42 Review

I believe it is time for a major review of Chapter 42 of the Code of Ordinances governing subdivisions. The enclosed policy paper, which discusses problems and possible solutions to development regulations, is submitted for consideration by the Commission.

There are many parties interested in revising Chapter 42 and creating a so-called development code which would bring all development issues under an umbrella that would produce a more user friendly environment. There are many complex policy and technical issues that are broached in this paper and we need to create a manageable system for consideration and developing consensus on the issues. You might wish to consider the following approach (or some variation thereof):

- (1) The Chairman establishes two committees: suburban policy and urban policy--and appoints Commission members as chair and vice chair. The Chairman appoints private sector representatives to each committee. Membership should include at least one, but no more than two, representative(s) from each of the following interested constituencies: developers (land developers, suburban developers, inner city developers, apartment developers, single family developers, commercial developers, shopping center developers); builders; consultants (architects, land planners, engineers, surveyors); attorneys; realtors; community development corporations; homeowners and general property owners.

To keep committee sizes manageable, it might be advisable to create several issue specific sub-committees (issues discussed in the policy paper) such as compensating open space, building setbacks, planned unit developments, etc.

- (2) Committees meet and consider the policy issues and reach consensus. Each committee is serviced by Planning and Development staff and includes representation from other City departments as appropriate (PW&E, Fire). A policy statement is prepared and submitted to a technical subcommittee made up of technical persons from the policy and issue committees.
Time Frame: March-April 1996
- (4) Technical subcommittees draft appropriate technical criteria to reflect written policy positions.
Time Frame: May 1996
- (5) Committees receive technical proposals and review to determine if policy issues have been appropriately reflected.
Time Frame: June 1996
- (6) Chairman receives policy committees' reports and appoints a coordinating committee to assure consistency between urban and suburban policies, procedures and technical requirements.
Time Frame: July 1996
- (7) Coordinating committee report is turned over to Planning and Development Department for review and coordination with Legal Department in the preparation of an ordinance.
Time Frame: August-September 1996
- (8) Planning Commission holds public hearing on draft ordinance and forwards recommendation to City Council.
Time Frame: October 1996
- (9) City Council holds hearings and considers adoption of ordinance.
Time Frame: November-December 1996

Policy Paper/Revisions to Ordinances Affecting Development
February 1, 1996

This paper is organized around a discussion of problems and possible solutions to development regulations in the Code of Ordinances. The recommendations reflect the need for definitions, technical and organizational changes, clarity of language and the separation of policies from procedures.

Relatively few amendments to Chapter 42 have been made in the 13 years since its adoption in 1982. Houston and the ETJ in 1995 are quite different from 1982. A thorough review of ordinances affecting development is in order. Some of the problems that prompt this review are:

- ... The Planning Commission frequently is presented with variance requests to address problems and issues that were not foreseen when the ordinance was adopted.
- ... The demands of the marketplace have led to new proposals for private streets, gate controlled access and security stations, etc.
- ... While traditional developments are accommodated with relative ease under the existing ordinance, development in built up urban areas is complicated and often thwarted by the suburban orientation of the ordinance.
- ... New patio home concepts and developments in older neighborhoods raise questions regarding the requirement for compensating open space for developments with small lots.
- ... Setback requirements applied to inner city neighborhoods undergoing or in need of revitalization can be impediments to new development.
- ... Technical rules governing subdivisions often do not seem to have present day validity.
- ... From a user perspective, Chapter 42 is not organized and written in a friendly fashion either for those who must abide by its requirements or for those charged with its enforcement.
- ... Developers are frequently frustrated and often confused by having to deal with development regulations that are spread throughout the Code of Ordinances.
- ... A recognition that there are administrative efficiencies that can accrue from a re-write of the ordinance.

Suggested principles governing this review:

- ... Encourage and facilitate redevelopment within the inner city while balancing development in the extra territorial jurisdiction.
- ... Assure that specific technical standards (e.g., block length, cul-de-sac length, minimum lot size, street curvature 1, etc.) are appropriate under today's standards and suitable for guiding development into the future.
- ... Incorporate into the ordinance various Planning Commission policies (building line encroachments, dedications for corner cut-backs and street widening, etc.) and clarify and simplify variance policies and procedures.
- ... Eliminate or standardize and simplify differences between the subdivision and development platting processes.
- ... Eliminate from the ordinance any technical engineering requirements that are more appropriate for inclusion in other ordinances or policy or technical manuals of P&D and other city departments.
- ... Make the ordinance more user friendly.

Issue: Compensating open space.

The requirement for compensating open space can be an impediment to inner city development. A review of projects providing compensating open space indicates that most are suburban type developments utilizing for open space land that is not otherwise developable, usable or desirable for inclusion in a typical 5,000 square foot lot (ravines, gullies, drainage easements, wetlands). In several recent instances, the Planning Commission has granted variances to developments serving an urban market generally where public park facilities were readily accessible.

The ordinance contains detailed requirements for compensating open space. There is no differentiation between suburban and urban situations. The end product does not necessarily offer the public anything beneficial or utilitarian. The present provisions are included as Appendix A.

Consideration should be given to modifying the requirements for compensating open space. Simplifying requirements and applying them more selectively can encourage marketplace design innovation. Given that principle, the following requirements and definitions are offered for discussion:

Requirements

Residential uses. The minimum lot area for sewered lots must not be less than five thousand (5,000) square feet. The minimum lot area may be reduced to not less than 1,400 square feet under the following circumstances:

- (a) When the proposed development is located in an environmentally sensitive area; provided, however, that the property may not be developed at a ratio that would exceed the equivalent of eight (8) dwelling units per acre of land covered by the approved plat;
- (b) When the property is located in an Urban Area, in a tax increment financing district with an approved plan adopted by City Council pursuant to city ordinance or in a planned unit development.

The minimum width for any lot shall be not less than twenty (20) feet.

Definitions

Environmentally Sensitive Area. An area set-aside and managed to protect physical and biological features of the environment such as wetlands, estuaries, flood plains, flood ways, faults, and stands of trees.

Estuary. Water bodies where fresh water from rivers and streams mixes with salt water from the ocean or Gulf.

Fault. A break in the continuity of a rock formation caused by a shifting or dislodging of the earth's crust in which adjacent surfaces are differentially displaced parallel to the plane of fracture.

Flood Plain. A plain bordering a river or other watercourse subject to flooding, as shown on the most recent FEMA map.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a specified height, as shown on the most recent FEMA map.

Stand of Trees. An area of trees whose total combined canopy covers one acre or more and at least fifty (50) percent of which is composed of canopies of trees having a caliper of at least ten (10) inches, or any grove consisting of eight (8) or more individual trees having a caliper of at least twelve (12) inches whose combined canopies cover at least fifty (50) percent of the area encompassed by the grove.

Wetlands. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Urban Area. An area that is either (i) within the area bounded by Interstate Highway 610, also known as the 610 Loop, or (ii) within the corporate limits of the city and meets all of the following requirements:

- ... The area is bounded by major thoroughfares or other defining physical features such as railroad tracks, major overhead power transmission lines in fee strips, bayous, major flood control drainage ways, park land, schools, etc.;
- ... At least 75% of the parcels within the boundaries of the area are developed with building improvements;
- ... At least 66% of the parcels within the boundaries of the area are developed with or deed restricted to single or multi-family residential units;
- ... The area within the boundaries is developed at a residential density of at least 7 units to the acre.

Issue: Building Setback Requirements

The building setback requirements in the ordinance do not work to favor an urban environment, with the exception of the central business district where there are no setback requirements. It has been contended that 25 foot setbacks are necessary to prevent another "Woodway canyon," and had there been a setback area, that street could have been widened. But the Woodway situation stems from inadequate planning--too much density, not enough roadway capacity and inadequate ingress and egress from street to parking areas, and the purpose of setback lines is not to create a reservoir of land for potential right-of-way widening.

What then does a building setback line accomplish? To some extent it helps to assure light and air, avoid shadows and limit density, but that is limited since there are no city-wide building height limitations in effect. It can help assure visibility of sight lines for vehicles moving along a street front, but that too is limited since a solid eight foot high fence can be placed along the property line.

Is there a place in the ordinance for setbacks since setbacks to achieve particular purposes can be established through deed restrictions created by a developer? The ordinance establishes a 25 foot building line for major thoroughfares and lesser setbacks under various conditions for other streets. The uniform application of this requirement can be an impediment to inner city revitalization. For example, the Midtown TIRZ redevelopment plan is likely to call for extending along Main Street and other commercial streets the development of property without setbacks to create a more urban setting.

In this regard, we may want to consider policies that establish building lines based on certain goals or criteria, for example:

- ... single family detached units fronting on 100 foot deep lots should have 25 foot setbacks;
- ... commercial development along streets in urban areas could be permitted varying setbacks based either on approved development plans (as per a TIRZ or a PUD) or the right-of-way of the street based on the hierarchy classification;
- ... commercial development permitted without setbacks to facilitate the provision of parking in the rear of a site;
- ... townhouse development without setbacks on local streets in urban areas where lots are less than 100 feet deep.

Whatever the setback policies, it should be clear in the ordinance that any platted setback lines in excess of ordinance minimums are voided without the necessity of a re-plat when deed restrictions are no longer in effect.

Issue: Planned Unit Developments

The detailed requirements in the ordinance tend to inhibit creative land planning and design. The rules are very specific and if they are met, approval is assured. An important goal of development is predictability and compliance with all requirements of the ordinance achieves that goal. Proposing designs which require variances is risky since the outcome is not assured. That is why only about 10% of all subdivision plat submissions seek variances. Planned unit developments can be a vehicle for creative land planning. PUDs could be applied in both urban and suburban situations.

A goal in crafting language for PUDs would be to provide performance standards for design flexibility while establishing review criteria and time limitations on processing that would increase the predictability factor and decrease the concern of developers over delays and inappropriate conditions. Suggested purposes for a PUD could be:

- ... To establish a procedure for the development of large parcels of land under unified control in order to reduce or eliminate the inflexibility that otherwise would result from strict application of existing regulations.
- ... To ensure orderly and thorough planning and review procedures that will result in quality urban design and the creation and improvement of common open space and pedestrian circulation in residential areas.

- ... To encourage mixed use and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space and amenity.
- ... To provide for flexibility in the strict application of development regulations to take advantage of special site conditions, locations, neighborhood characteristics or design concepts.

The contents of a PUD application could include:

- ... A statement of the relationship between the proposed PUD and the purposes of the subdivision ordinance, demonstrating that the proposed PUD conforms and is consistent with the intent of the ordinance.
- ... A survey showing the PUD boundaries with appropriate additional information such as outside local street system, major thoroughfares, drainage systems, etc.
- ... A site plan showing the proposed traffic circulation within the PUD, the number of single family and multi-family dwelling units, parking space proposals and layouts, building setback proposals for each lot or housing type, lot dimensions, lot coverage, open space and other relevant information.

Upon recommendation of the Department, the commission should approve the PUD upon a determination that it:

- ... Is consistent with the purposes of the ordinance and other applicable policies and is compatible with surrounding development;
- ... Enhances the potential for superior urban design in comparison with development that meets the standard subdivision requirements of the ordinance;
- ... Demonstrates that deviations from the basic regulations that otherwise would apply are justified by compensating benefits of the PUD plan;
- ... Includes adequate provision for on-site services including utilities, drainage, emergency vehicle access, etc.;
- ... Ensures public facility demands from the PUD will not exceed the capacity of existing and planned street and utility systems.

The requirements for a PUD should include provisions for a note on the face of the plat referencing the recorded deed restrictions, and procedures for Planning Commission approval of amendments to the deed restrictions that affect any features of the PUD site plan approved by the Commission.

Issue: Technical design standards affecting development costs.

The committee working on private streets in 1991-92 had several goals: to simplify the ability of developers to create projects with controlled access (private streets); to establish right-of-way, street and utility standards that would be cost effective for developers; and to facilitate dense development in certain urban areas.

Recent amendments establishing "permanent access easements" in lieu of private streets in single family developments have simplified the development process. The operative policy in that amendment was that the construction of permanent access easements in developments served by public utilities would be to public standards even though the improvement would not be maintained by a public agency. Coordination with the Department of Public Works & Engineering has resulted in understandings regarding the jurisdiction of PW&E to enforce standards for design and construction of roadways and utilities.

Proposals discussed in this paper regarding planned unit developments and the elimination of compensating open space can result in increased density in certain areas. In light of that, there should be a complete review of all technical standards that affect the design and cost of development including right-of-way widths and street paving sections (public, private or permanent access easements), block lengths, intersections, turning radii, curves, cul-de-sacs, driveways and curb cuts, parking spaces and utility services.

Issue: Variances

The Planning Commission frequently is presented with variance requests to address problems and issues that were not foreseen when the ordinance was adopted. Applicants frequently submit proposals that would produce a product at least equal to and in many instances better than would otherwise result from a strict application of the relevant rules in the ordinance. The narrow wording of the variance requirements makes it difficult to achieve the best results.

The Commission should have more flexibility in the granting of variances. The section on variances might be changed as shown below (substantive change is shown in bold italics).

Sec. 42-33. Variances.

Where, in the opinion of the commission, strict compliance with the specific terms, rules, conditions, policies and standards of the commission provided in this chapter (i) would create an undue hardship by depriving the applicant or subdivider of the reasonable use of the land, (ii) would make a project infeasible due to the existence of unusual physical characteristics which affect the property in question, or ***(iii) would create an impractical development or one otherwise contrary to sound public policy***, the commission may grant the applicant or subdivider a variance as to one (1) or more requirements so long as the general purpose of this chapter is maintained. Economic hardship shall not constitute the sole basis for granting a variance under this section.

Issue: Different regulations for subdivision and development plats.

There are differences between requirements for development plats and subdivision plats that often lead to variances or unwarranted procedural delays. Property owners at times are confused and at times thwarted by subdivision rules that are more limiting than the rules applicable to development plats. Examples are 10 foot building lines in development plats and 25 foot building lines under subdivision plats. Other examples include driveway widths and compensating open space requirements, which apply under subdivision plats, but not under development plats.

Memoranda of January 27 and May 2, 1995, to the development community set forth Department policy interpretations regarding the use of development plats to create lots under certain limited circumstances (see Appendix B). This interpretation should be codified into the ordinance. The ordinance should clarify the policy point that development plats for construction review have application only to the specific project for which they have been filed.

Consideration should be given to the creation of a "minor plat" as the vehicle for limited urban area subdivisions and the substitution of "site plans" for development plats as a vehicle for reviewing projects ready for construction by a single owner/user on a parcel. Minor plats could be submitted for the creation and recording in deed records of a development with less than xx lots where there is sufficient infrastructure in place to serve the lots. Minor plats could be a cost efficient alternative to a subdivision plat, since the ordinance does not permit the use of a development plat where dedications for street widening are required, and for recording adjusted residential lot lines that differ from those on a recorded subdivision plat. All other development would be required to file a subdivision plat.

Care should be taken in any re-write to eliminate any ambiguities or illogical differences in requirements applicable to different kinds of plats (i.e., subdivision plats, minor plats, if provided, and development plats, if retained).

Issue: Dedications pursuant to development plats.

The Commission has established certain policy guidelines addressing when dedications would be required for street widening or corner cutbacks (see Appendix C). Those policies should be reviewed and where applicable included in the ordinance. Dedications for widening should reflect the requirements in the (assumed to be) adopted hierarchy element of the Major Thoroughfare and Freeway Plan. Criteria for corner cutback dedications should reflect the classification level of intersecting streets. In lieu of dedications it might be desirable to consider establishing visibility easements for intersection corners.

Issue: Reconstruction after casualty.

The City's development ordinance does not define a particular point when a building is considered destroyed. Historically, the City's building permitting office has considered a building to be destroyed when the cost to rebuild the damaged portion exceeded 50 percent of the assessed value of the entire building. However, there can be circumstances when the 50 percent factor might not make economic sense and a more flexible formulation, such as the

following, might be in order:

- ... When the estimated cost to rebuild the damaged portion of the building exceeds 75% of the assessed value of the entire building (after subtracting the estimated replacement cost of the building foundation), the building would be considered destroyed and any reconstruction or replacement of the building would require adherence to the setback line required by the ordinance.
- ... When the cost to rebuild exceeds 50% of the assessed value of the entire building (after subtracting the estimated cost of the building foundation), the building official may certify the building for reconstruction with the existing encroachment, provided the building official determines that the reconstruction would not be a material enhancement of the building as it existed prior to the damage.
- ... In the instance where the damage exceeds 75% of the assessed value of the entire building (after subtracting the estimated replacement costs of the building foundation), the property owner would be required to obtain a variance from the Planning Commission to permit continued encroachment of the building over the setback line.

Issue: Definitions

A full review of all definitions is needed. There are terms defined that are not found in the ordinance (eg. subdivider, building permit application), and there are other terms, not defined, that cause confusion. Among the frequently used terms for which definitions would be useful are reserves, including the different types; plats, including the different types such as subdivision, development, minor, apartment, general plan, street pattern only and re-plats. There are instances where the definition includes regulations which should be in the body of the text, or where regulations are implied but not found in the ordinance.

Issue: Making the ordinance user friendly.

It is generally accepted that the ordinance is not user friendly in terms of language and organization. The following is an example of how one section might be re-written to make the ordinance user friendly by removing negative constructions and improving understanding through the use of plain english. The existing text is followed by a re-write in bold type.

Sec. 42-5. Exceptions from the filing of subdivision plats.

- (a) No subdivision plat shall be required to be filed with the commission under the provisions of this chapter if the procedures for filing a development plat required in Article VI are complied with and such development plat provides:
- (a) **A subdivision plat is not required to be filed with the commission if the procedures in Article VI for filing a development plat are complied with and the development plat:**
 - 1. For no new public or private streets;
 - 1. **Does not propose new public or private streets or permanent access easements;**

2. That the tract of land included in the development plat has direct public street frontage on at least one (1) public street having a right-of-way width which is in conformance with this chapter;
2. **Provides that the subject tract of land has direct frontage on at least one (1) public street having a right-of-way width in conformance with the provisions of section xx-xx;**
3. That the development of the property shown on the development plat would not result in a block length greater than one thousand four hundred (1400) feet along any public local street and is less than one thousand eight hundred (1800) feet along any major thoroughfare;
3. **Ensures that the development of the property shown would not result in a block length greater than one thousand four hundred (1400) feet along any local street or greater than one thousand eight hundred (1800) feet along any major thoroughfare;**
4. That no major thoroughfare dedication is required to comply with the major thoroughfare plan;
4. **That a dedication of land is not required to comply with the major thoroughfare plan;**
5. For no more than three (3) single-family residential units (attached or detached) that do not have direct access to a public street.
5. **Does not propose more than three (3) single-family residential units (attached or detached) that will not have direct access to a public street.**

Issue: Miscellaneous issues and questions.

The following is a list of issues and questions that have been identified as warranting some review and discussion during the process of re-examining the ordinance.

- ... A policy manual, updated periodically, might be an appropriate system for facilitating certain kinds of changes without the necessity of amending the ordinance. A policy manual should address issues and processes that are technical or subject to interpretation depending upon a factual situation that can be treated administratively rather than codified in the ordinance. One example is the technical details for applications. The new electronic filing system (TAPS) is indicative of how technology can change the nature of a submission process.
- ... Development plat requirements call for an up-to-date survey. Under certain circumstances, a subdivision plat would provide the same information. Staff should have flexibility to use either instrument.
- ... Adoption of a street hierarchy system may require further revisions to the subdivision ordinance to reflect a different approach to classifying streets as it affects lots, building lines and reserve access standards.

- ... Is there a potential ordinance conflict if a mixed use development (office, retail, apartments) were to be platted with private streets?
- ... Does the one foot reserve serve its purpose?
- ... Should standards be established for increasing block lengths along major impediments such as the ship channel, bayous, fee strips, existing developments without stubs, and pipeline or drainage easements over a certain width?
- ... Should there be standards for drill sites covering setbacks from drill site boundaries, a separate reserve to facilitate public notification, and access to public streets?
- ... The ordinance defines a general plan but does not require the submission of such a plan for a large development that is to be staged. A procedure for review, approval and amendment of such a plan should be developed. Consideration should be given to establishing a time line for the life of a general plan.
- ... The manner in which the ordinance addresses the issue of street or utility crossings of privately owned easements or fee strips can lead to a situation where a plat approval is held hostage to an easement owner. Language should be drafted to clarify the situation and assure adequate protections to both the private and the public interest.
- ... Under State law, the division of land into two or more parts must be recorded. Exemptions to platting for large agricultural tracts that are divided but not for development should be considered.
- ... The ordinance should clarify the applicability to a plat of recently adopted State law dealing with the continuation of regulations in effect under a continuous permit.
- ... Chapter 42 defines apartments as residential, but the Building Code defines them as commercial. Does this difference create problems?

Issue: Codifying a development ordinance.

The following portions of the City Code of Ordinances relate to functions and responsibilities of the Planning and Development Department. Recodifying these ordinances into a "development code" would be a significant step towards making the development process more user friendly.

- ... Chapter 41 includes various provisions related to subdivisions, including standards for private streets, which differ from private streets regulated under Chapter 42, and regulations governing the development of towers.
- ... Chapter 33 deals with the establishment of the Planning and Development Department, the Planning Commission and the Archaeological and Historical Commission and

incorporates the historic preservation ordinance. It also includes requirements related to landscaping new development (the tree and shrub ordinance).

- ... Chapter 28 includes requirements governing location of hotels and motels and correctional facilities.
- ... Chapter 26, enacted after Chapter 42, deals with off-street parking requirements. Chapter 42 addresses parking requirements only for apartment projects, and these are not fully consistent with Chapter 26, which allows for compact car spaces. It would facilitate and simplify use of the Code if off-street parking requirements were referenced to Chapter 26 and specific requirements were deleted from Chapter 42.

APPENDIX A

Present Ordinance Provisions

Definition

Compensating open space. Those areas designated on a plat which are restricted from development except for landscaping and recreational uses in which all owners of residential properties within the plat have a common legal interest or which are retained in private ownership and restricted from development, except for landscaping and recreational uses, for the exclusive use of all owners of residential property within the plat, and such designation shall remain in effect until the plat is vacated or the tract is re-platted. The terms "compensating open space" and "common open space" may be used interchangeably and can be considered the same.

Requirements

Compensating open space required. In those instances where the proposed lot has a gross area of less than five thousand (5,000) square feet, compensating open space must be established and provided within the plat boundary and based upon the following schedule:

COMPENSATING OPEN SPACE REQUIREMENTS (Lots Less Than 5,000 Square Feet in Area)

Average Area of Lots (Square Feet)

1,400 - 2,000
2,001 - 2,500
2,501 - 3,000
3,001 - 3,500
3,501 - 4,000
4,001 - 4,500
4,501 - less
than 5,000

Compensating Open Space Required per Lot (Square Feet)

720
600
500
400
300
200
100

In no instance will the compensating open space contained within any subdivision having special lots be less than twenty-one thousand seven hundred eighty (21,780) square feet (one half (1/2) acre) nor shall the compensating open space required be in excess of twenty-five (25) percent of the gross area of the of the property within the plat boundary exclusive of any public street rights-of-way involved. This does not apply to subdivisions having special lots and containing less than ten (10) acres. Subdivisions having special lots and containing less than ten (10) acres must, however, provide compensating open space in accordance with the schedule. If a plat containing lots requiring compensating open space is less than ten (10) acres, but is a part of a larger tract being planned and developed as an overall design, the commission may take into consideration the overall development scheme in the determination of compensating open space requirements provided for herein.

Compensating open space.

Compensating open space is considered to be only in those areas not specifically designated or used as lots, building sites for dwelling units, building sites for utility or storage purposes, vehicular parking lots, carports or garages or driveways thereto or streets, either public or private. These properties must be restricted for the exclusive use of owners within the subdivision and owned, managed and maintained under a suitable binding agreement among such property owners. Compensating open spaces may remain undeveloped or be landscaped, may be developed for recreational purposes, and can be used to provide courtyard access from groups or clusters of lots adjacent to public streets.

Compensating open spaces used as courtyards which are designed to provide primary access from groups or clusters of lots or building sites adjacent to public streets or private streets must have an average width between fronts of such lots or buildings of twenty-five (25) feet with a minimum width of such distance being not less than twenty (20) feet. The length of such courtyards should not be more than two hundred (200) feet extending away from the public street or private street on which such courtyards must open.

Compensating open space analysis is required when lots to be established on the plat are to have an area of less than five thousand (5,000) square feet. This analysis is to include the following items:

- A.Total number of lots, hereafter referred to as "a".
- B.Total area of lots (in square feet and acres) hereafter referred to as "b".
- C.Average lot area (b/a) in square feet, hereafter referred to as "c".
- D.Typical lot size (length and width).
- E.Total area of compensating open space within plat boundary (in square feet and acres), hereafter referred to as "e".
- F.Average compensating open space per lot (e/a) hereafter referred to as "f".
- G.Lots plus compensating open space (c+f).
- H.Total area for: Public street rights-of-way, private street rights-of-way, and other areas not designated as lots in square feet and acres.
- I.Dwelling unit density (a/total gross area of plat, exclusive of any unrestricted reserves).